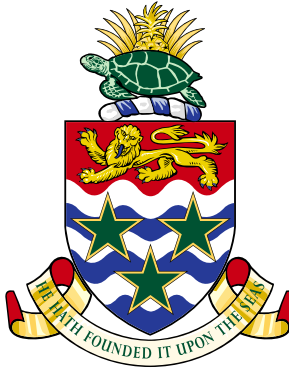


CAYMAN ISLANDS



ADMINISTRATIVE APPEALS TRIBUNAL BILL, 2025

Supplement No. 1 published with Legislation Gazette No. 35 dated 2nd October, 2025.

**A BILL FOR AN ACT TO ESTABLISH THE ADMINISTRATIVE APPEALS TRIBUNAL;
TO PROVIDE FOR THE TRIBUNAL'S MEMBERSHIP, JURISDICTION, POWERS AND
PROCEDURES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Portfolio of Legal Affairs (PLA)



Memorandum of OBJECTS AND REASONS

This Bill establishes an Administrative Appeals Tribunal (“the Tribunal”) to hear a range of appeals in relation to administrative decisions. The Tribunal replaces a range of existing specialist tribunals established under various Acts to hear appeals against decisions under those Acts.

The Bill is divided into four Parts and contains seventy-two clauses.

PART 1 - PRELIMINARY

Part 1 of the Bill deals with preliminary matters.

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 contains definitions used throughout the legislation, including important definitions such as “affected person” (a person with a right to appeal against a decision), “appealable decision” and “relevant Act” (an Act that confers jurisdiction on the Tribunal to hear an appeal against a decision made under that Act).

Clause 3 outlines how the Act interacts with relevant Acts, being Acts that confer jurisdiction on the Tribunal. The Tribunal derives its jurisdiction from other Acts under which administrative decisions are made. For a decision to be appealable to the Tribunal, a relevant Act must specify that a decision under that Act may be appealed to the Tribunal. Clause 3 provides that a relevant Act prevails to the extent of any inconsistency between the relevant Act and this Act. In addition, a relevant Act may modify the operation of this Act. The purpose of this clause is to allow a relevant Act to provide for procedures specific to appeals in relation to decisions under that Act. This ensures the Tribunal operates in a way that is appropriate to the wide range of matters it will hear.

PART 2 – ADMINISTRATIVE APPEALS TRIBUNAL

Part 2 of the Bill establishes the Tribunal and provides for its jurisdiction, structure, membership and administration.

Clause 4 establishes the Tribunal.

Clause 5 provides that the Tribunal has the jurisdiction conferred on it by this or any other Act. This allows for relevant Acts to confer jurisdiction on the Tribunal.

Clause 6 provides that the Tribunal may operate anywhere in the Islands. This allows for the Tribunal to sit in different places to enhance access to the Tribunal.

Clause 7 provides for the objectives of the Tribunal, including accessibility, speed, the use of straightforward language and informality. These objectives promote access to justice.

Clause 8 specifies that the Tribunal and its members are not subject to direction by any person or authority.

Clause 9 provides for the membership of the Tribunal. The Tribunal consists of a President, a Deputy President, at least two legal members and as many ordinary members as are required. There is no maximum number of members. Members are appointed by the Governor.

Clause 10 provides for the President to establish divisions of the Tribunal to hear different classes of matters. This is not a requirement, but an option available as a method of organising the Tribunal.

Clause 11 provides for the qualifications of members. The President and Deputy President must be eligible for appointment as a Judge of the Grand Court. Legal members must be attorneys-at-law with at least five years of post-qualification experience. Ordinary members are required to hold significant experience or qualifications relevant to the work of the Tribunal. This allows for specialists in non-legal fields to be appointed to bring specific expertise relevant to the matters before the Tribunal.

Clause 12 provides for the functions of the President and Deputy President. The President is responsible for the overall management and administration of the Tribunal, and for issuing practice directions. The Deputy President assists the President in those functions.

Clause 13 provides for the duration of appointments of members. The President and Deputy President must be appointed for a minimum term of six years. The other members must be appointed for a minimum term of three years. All members are eligible for re-appointment.

Clause 14 provides for the circumstances in which a member vacates office, including if the member is removed or ceases to be eligible for appointment (for example, by being convicted of certain offences).

Clause 15 provides for the Governor to remove a member of office for inability to discharge the member's functions or serious misbehaviour.

Clause 16 provides that the Tribunal's exercise of its jurisdiction is not affected only by reason of a vacancy in membership or a defect in the appointment of a member.

Clause 17 provides for the President to delegate administrative functions to another member or the Registrar of the Tribunal.

Clause 18 provides that the remuneration of members is prescribed by Order by the Governor.

Clause 19 provides for the appointment of a Registrar of the Tribunal, to assist the President in the administration of the Tribunal and manage the records of the Tribunal.

Clause 20 provides for the Secretariat and staff of the Tribunal.

Clause 21 provides for the President to appoint assessors to the Tribunal for a single appeal or class of appeals. Assessors provide specialist advice to the Tribunal. This provision allows the President to appoint assessors on an *ad hoc* basis or to appoint a panel of assessors that can be called on as required.



Clause 22 provides for the functions of assessors, which are to give expert evidence or give advice about a matter within their specialist expertise.

PART 3 – APPEALS

Part 3 of the Bill provides for the grounds and procedures for appeals to the Tribunal.

Clause 23 provides for the information required to be given to an affected person (a person with a right to appeal) by a decision maker about an appealable decision. This includes information about the person's right to appeal to the Tribunal.

Clause 24 provides for the right of an affected person to request a written statement of reasons for an appealable decision.

Clause 25 provides for the grounds of an appeal to the Tribunal. An affected person may appeal on the grounds that the decision is erroneous in law, unreasonable or contrary to the principles of natural justice. The relevant Act under which the decision is made may specify additional grounds.

Clause 26 requires an appeal to be started within twenty-eight days after the affected person is notified of the decision or receives (or ought to receive) a written statement of reasons for the decision from the decision maker, whichever is later. The President can extend the time for starting an appeal by up to seven days, in accordance with the rules.

Clause 27 provides for the President to assign one or more members to hear an appeal. At least one member assigned must be a legal member.

Clause 28 provides for the presiding member of the Tribunal for an appeal, being the most senior member or the member nominated to preside by the President.

Clause 29 provides that the commencement of an appeal does not stay the original decision unless the Tribunal orders otherwise.

Clause 30 provides that an appeal to the Tribunal is conducted as specified in the relevant Act.

Clause 31 provides that the Tribunal may determine an appeal by confirming the original decision, varying it, or setting it aside and either substituting a new decision or referring the matter back to the original decision maker.

Clause 32 provides that a decision confirmed, varied or substituted by the Tribunal cannot be appealed again to the Tribunal.

Clause 33 provides that a decision of the Tribunal may be appealed to the Grand Court on a question of law, with leave from the Court.

Clause 34 provides that the Tribunal may determine its own procedures. This is subject to any procedures set out in the Act, the rules or a relevant Act.

Clause 35 provides for the principles according to which the Tribunal must conduct its proceedings, including natural justice and minimising formality and technicality.

Clause 36 requires the Tribunal to take reasonable steps to ensure the parties to a matter understand the proceedings.

Clause 37 provides for the Tribunal to hold an appeal without a hearing if the parties consent.

Clause 38 provides for the Tribunal to adjourn a proceeding.

Clause 39 provides for the Tribunal to sit at the places and times determined by the President.

Clause 40 requires proceedings to be open to the public unless the Tribunal orders otherwise.

Clause 41 provides for parties to be assisted by interpreters.

Clause 42 provides for parties to participate by electronic means with the permission of the Tribunal.

Clause 43 provides for the Tribunal to order that a proceeding be held in private, and to restrict publication of matters relating to the proceeding.

Clause 44 provides for the Tribunal to make preservation orders to preserve the subject matter of a proceeding, such as evidence.

Clause 45 provides for the Tribunal to make interlocutory orders.

Clause 46 provides for the Tribunal to make orders relating to security for costs or monetary awards.

Clause 47 provides for the Tribunal to make ancillary orders and directions as required.

Clause 48 provides for the disclosure of conflicts of interest by assessors.

Clause 49 provides for the disclosure of conflicts of interest by members.

Clause 50 provides for the Tribunal to make directions as required during a proceeding.

Clause 51 provides for the Tribunal to dismiss frivolous, vexatious or improper proceedings.

Clause 52 provides for a decision of the Tribunal to be issued under seal, and requires reasons for the decision to be given to the parties within twenty-eight days after the hearing of the proceeding.

Clause 53 provides for the Tribunal to publish its decisions as it sees fit.

Clause 54 provides that a decision of the Tribunal certified by the Registrar is taken to be proof of the decision.

Clause 55 provides for the Tribunal to issue summons requiring a person to appear before it or produce documents.

Clause 56 provides for the Tribunal to require witnesses to be sworn and to answer questions.

Clause 57 specifies who is a party to proceedings, including the person appealing and the decision maker.

Clause 58 provides for the Tribunal to join a party to proceedings.

Clause 59 provides for a person to intervene in proceedings with the leave of the Tribunal.



Clause 60 specifies that a party may appear personally or by legal or other representation. Leave of the Tribunal is required for a person to appear by non-legal representation.

Clause 61 specifies that, subject to an order of the Tribunal, parties bear their own costs.

Clause 62 provides for the Tribunal to make a costs order against a party in exceptional circumstances, such as where the party has caused unreasonable delay or obstruction.

Clause 63 provides for the Tribunal to make a costs order against a representative in exceptional circumstances, such as where the representative has delayed proceedings.

Clause 64 provides for the Tribunal to require a party to pay all or some of the costs of an assessor, provided that the party has been given prior notice of the cost.

Clause 65 provides for the Rules Committee of the Grand Court to make rules for procedure, forms, fees and other matters.

Clause 66 provides for the President to issue practice directions.

PART 4 – MISCELLANEOUS

Part 4 of the Bill deals with miscellaneous matters.

Clause 67 indemnifies and protects members from civil and criminal liability for anything done by the member in good faith in the exercise of a power or the performance of a function as a member.

Clause 68 protects a person from civil, criminal and professional liability for disclosing information under a requirement of the Act.

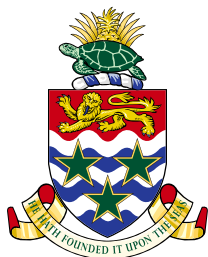
Clause 69 contains an offence for disclosing information obtained in the course of performing functions or exercising powers under the Act.

Clause 70 requires the President to submit an annual report of the Tribunal to the Attorney General each year and requires the Attorney General to table the report in Parliament.

Clause 71 provides for the seal of the Tribunal.

Clause 72 provides for the Cabinet to make regulations under the Act.

CAYMAN ISLANDS



ADMINISTRATIVE APPEALS TRIBUNAL BILL,
2025

Arrangement of Clauses

Clause	Page
--------	------

PART 1 - PRELIMINARY

1.	Short title and commencement	13
2.	Interpretation	13
3.	Relationship with other Acts.....	14

PART 2 – ADMINISTRATIVE APPEALS TRIBUNAL

Division 1 – Establishment of Tribunal		15
4.	Tribunal established.....	15
5.	Jurisdiction	15
6.	Tribunal to operate throughout Islands.....	15
7.	Objectives of Tribunal	15
8.	Independence of Tribunal	15
Division 2 – Membership and structure of Tribunal		15
9.	Membership.....	15
10.	President may establish divisions	16
11.	Qualifications of members	16
12.	Functions of President and Deputy President	16
13.	Duration of appointment.....	17



14. Vacation of office	17
15. Removal from office	17
16. Validity of acts	17
17. Delegation	17
18. Remuneration	17
Division 3 – Registrar and staff	18
19. Registrar	18
20. Secretariat and staff	18
Division 4 - Assessors	18
21. Appointment of assessors	18
22. Functions of assessors	18

PART 3 - APPEALS

Division 1 – Obligations of decision makers	19
23. Information about appealable decision	19
24. Statement of reasons for decision	19
Division 2 – Starting an appeal	20
25. Grounds for appeal	20
26. Starting an appeal	20
27. Who constitutes the Tribunal for an appeal	20
28. Who presides at a proceeding	21
29. Effect of an appeal on decision	21
Division 3 – Manner and outcome of appeal	21
30. Conduct of appeal	21
31. Determination of appeal	21
32. Effect of determination	22
33. Appeal to Grand Court	22
Division 4 – Procedures of Tribunal	22
34. Tribunal may determine own procedures	22
35. Principles for conducting proceedings	22
36. Tribunal to ensure parties informed	23
37. When hearing may be dispensed with	23
38. Power to adjourn proceedings	23
39. Sittings	23
40. Proceedings to be heard in public	23
41. Interpreters	23
42. Electronic hearings and proceedings on documents	23
43. Tribunal may make orders for private hearing, non-publication	24
44. Preserving subject matter of proceedings	24
45. Interlocutory orders	24
46. Security as to costs	24
47. Conditional and ancillary orders	24
48. Disclosure of interests - assessors	24
49. Disclosure of interests - members	25
50. Directions for conduct of proceeding	25
51. Frivolous, vexatious or improper proceedings	25
52. Decisions and reasons for decisions	25
53. Publication	26



54.	Proof of decisions and orders	26
55.	Power to issue summons	26
56.	Witnesses	26
57.	Parties	26
58.	Person may be joined as party	27
59.	Person may intervene in proceeding	27
60.	Representation	27
61.	Parties bear own costs	27
62.	Tribunal may make costs orders	27
63.	Costs order against representative	28
64.	Costs of assessor	28
65.	Rules	28
66.	Practice directions	29

PART 4 - MISCELLANEOUS

67.	Protection from liability and indemnity	29
68.	Protection from liability for disclosure	29
69.	Confidentiality	29
70.	Annual report	30
71.	Seal	30
72.	Regulations	30

CAYMAN ISLANDS



ADMINISTRATIVE APPEALS TRIBUNAL BILL, 2025

A BILL FOR AN ACT TO ESTABLISH THE ADMINISTRATIVE APPEALS TRIBUNAL;
TO PROVIDE FOR THE TRIBUNAL'S MEMBERSHIP, JURISDICTION, POWERS AND
PROCEDURES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the *Administrative Appeals Tribunal Act, 2025*.
- (2) This Act comes into force on such date as may be appointed by Order made by the Cabinet and different provisions of this Act may be brought into force on different days and for different purposes.

Interpretation

2. In this Act —

“**affected person**”, in relation to an appealable decision, means a person who has a right under a relevant Act to appeal the decision to the Tribunal;

“**appealable decision**” means a decision that may be appealed to the Tribunal under a relevant Act;

“**assessor**” means an assessor appointed under section 21;

“**attorney-at-law**” means a person admitted to practise as an attorney-at-law under section 3(1) of the *Legal Practitioners Act (2022 Revision)*;

“**chief officer**” means the chief officer of the judicial administration appointed under the *Public Service Management Act (2018 Revision)*;

“**decision maker**” means the person or body that makes an appealable decision;

“**Deputy President**” means the Deputy President of the Tribunal mentioned in section 9(1)(b);

“**legal member**” means a member of the Tribunal mentioned in section 9(1)(c);

“**member**” means a member of the Tribunal mentioned in section 9;

“**ordinary member**” means a member of the Tribunal mentioned in section 9(1)(d);

“**party**” means a party to a proceeding before the Tribunal under section 57(1);

“**President**” means the President of the Tribunal mentioned in section 9(1)(a);

“**Registrar**” means the Registrar of the Tribunal mentioned in section 19;

“**relevant Act**” means an Act that confers jurisdiction on the Tribunal to hear an appeal against an appealable decision;

“**rules**” means the rules of the Tribunal made under section 65;

“**Rules Committee**” means the Rules Committee of the Grand Court established under section 19 of the *Grand Court Act (2015 Revision)*; and

“**Tribunal**” means the Administrative Appeals Tribunal established by section 4.

Relationship with other Acts

3. (1) If there is an inconsistency between this Act and a relevant Act, the relevant Act prevails to the extent of the inconsistency.
- (2) A relevant Act may modify the operation of this Act in relation to any matter, including —
- (a) the jurisdiction of the Tribunal;
 - (b) the powers and procedures of the Tribunal; and
 - (c) the time required for doing anything under this Act.



PART 2 – ADMINISTRATIVE APPEALS TRIBUNAL

Division 1 – Establishment of Tribunal

Tribunal established

4. The Administrative Appeals Tribunal is established.

Jurisdiction

5. The Tribunal has the jurisdiction conferred on it by this or any other Act.

Tribunal to operate throughout Islands

6. The Tribunal shall facilitate access to its services throughout the Islands, and may sit at any place in the Islands.

Objectives of Tribunal

7. The objectives of the Tribunal are to —
- (a) ensure that appeals are processed and resolved as quickly, and with as little cost to parties, as possible while achieving a just outcome;
 - (b) be accessible to the public, including people with special needs;
 - (c) promote the best principles of public administration;
 - (d) use straightforward language and procedures; and
 - (e) act with as little formality and technicality as possible.

Independence of Tribunal

8. (1) The Tribunal is not subject to the direction or control of any person or authority in exercising its jurisdiction.
- (2) A member is not subject to the direction or control of any person or authority in the exercise of the member's powers or the performance of the member's functions.

Division 2 – Membership and structure of Tribunal

Membership

9. (1) The Tribunal consists of the following members —
- (a) the President;
 - (b) the Deputy President;
 - (c) at least two other legal members; and
 - (d) as many ordinary members as are required.

- (2) The members of the Tribunal are appointed by the Governor.
- (3) Before appointing the President and the Deputy President, the Governor shall consult with the Premier and the Leader of the Opposition.

President may establish divisions

- 10. (1) The President may establish divisions of the Tribunal to hear different classes of matters.
- (2) The President may assign members to one or more divisions and may vary the assignment at any time.

Qualifications of members

- 11. (1) A person is eligible for appointment as the President or the Deputy President if the person is qualified for appointment as a Judge under section 6 of the *Grand Court Act (2015 Revision)*.
- (2) A person is eligible for appointment as a legal member if the person —
 - (a) is an attorney-at-law; and
 - (b) has at least five years of post-qualification experience, either in the Islands or in another jurisdiction mentioned in section 3(1) of the *Legal Practitioners Act (2022 Revision)*.
- (3) A person is eligible for appointment as an ordinary member if the person holds significant experience or qualifications relevant to the work of the Tribunal.
- (4) A person is not eligible for appointment as a member if the person —
 - (a) is an undischarged bankrupt, either in the Islands or elsewhere; or
 - (b) has been convicted, either in the Islands or elsewhere, of an offence other than a summary offence for which the person was not sentenced to a period of imprisonment.

Functions of President and Deputy President

- 12. (1) The President has the following administrative functions —
 - (a) to be primarily responsible for the administration of the Tribunal;
 - (b) to manage the work of the Tribunal, including by ensuring that the Tribunal operates efficiently and effectively and continually improves the way in which it carries out its functions;
 - (c) to manage the members and staff of the Tribunal;
 - (d) to issue practice directions for the Tribunal; and
 - (e) any other functions conferred on the President by this or any other Act.
- (2) The Deputy President has the following administrative functions —
 - (a) to assist the President in the operations of the Tribunal;



- (b) any other functions conferred on the Deputy President by this or any other Act.

Duration of appointment

- 13.** (1) The President and Deputy President hold office for the period, not less than six years, specified in the instrument of appointment and are eligible for reappointment.
- (2) A member other than the President or Deputy President holds office for the period, not less than three years, specified in the instrument of appointment and is eligible for reappointment.

Vacation of office

- 14.** A person ceases to be a member if —
- (a) the person resigns by giving written notice to the Governor;
 - (b) the person's term of office expires and the person is not reappointed;
 - (c) the person is removed from office under section 15; or
 - (d) the person ceases to be eligible for appointment under section 11.

Removal from office

- 15.** (1) The Governor may remove a member from office for inability to discharge the functions of the member's office or for serious misbehaviour.
- (2) The powers conferred on the Governor by this section shall be exercised by the Governor acting in his or her discretion.

Validity of acts

- 16.** The Tribunal's exercise of its jurisdiction is not affected only by reason of a vacancy in the membership of the Tribunal or a defect in the appointment of a person as a member.

Delegation

- 17.** The President may delegate his or her administrative functions under this Act to —
- (a) a member; or
 - (b) the Registrar.

Remuneration

- 18.** A member is entitled to the remuneration and other entitlements prescribed by Order by the Governor acting in his or her discretion.

Division 3 – Registrar and staff

Registrar

- 19.** (1) The chief officer may, in accordance with the *Public Service Management Act (2018 Revision)*, appoint a person to be the Registrar of the Tribunal.
- (2) The Registrar has the following functions —
- (a) to assist the President in the administration of the Tribunal;
 - (b) to manage the registry and records of the Tribunal; and
 - (c) any other function as directed by the President or specified under the rules.

Secretariat and staff

- 20.** (1) The Tribunal is to be supported by a Secretariat.
- (2) The chief officer may, in accordance with the *Public Service Management Act (2018 Revision)*, appoint staff members to the Secretariat.

Division 4 - Assessors

Appointment of assessors

- 21.** (1) The President may, in writing, appoint a person to be an assessor for an appeal or a class of appeals to provide specialist or technical advice to the Tribunal.
- (2) The President may appoint a person to be an assessor only if the President is satisfied that the person holds suitable qualifications, or has suitable knowledge or experience, to advise the Tribunal.

Functions of assessors

- 22.** (1) The Tribunal may ask an assessor to —
- (a) give expert evidence in an appeal; or
 - (b) give advice about a matter that is the subject of an appeal.
- (2) In asking an assessor to give advice under subsection (1)(b), the Tribunal may ask the assessor to conduct an inquiry or investigation into a specified matter and give a written report of the assessor's findings to the Tribunal.



PART 3 - APPEALS

Division 1 – Obligations of decision makers

Information about appealable decision

- 23.** (1) This section applies if a decision maker makes an appealable decision under a relevant Act.
- (2) The decision maker is required to give each affected person written notice of —
- (a) the decision;
 - (b) the person’s right to appeal the decision to the Tribunal; and
 - (c) the person’s right to request a statement of reasons for the decision.
- (3) If an affected person is not readily identifiable or cannot be readily located, the decision maker complies with subsection (2) if the decision maker takes reasonable steps to give the notice.
- (4) A decision maker’s failure to comply with this section does not affect the validity of the appealable decision.
- (5) If this Act and the relevant Act both require the decision maker to give notice of a decision, the decision maker is only required to give the notice once.

Statement of reasons for decision

- 24.** (1) An affected person in relation to an appealable decision may request a written statement of reasons for the decision from the decision maker.
- (2) The request shall be made within twenty-eight days after notice of the decision was given.
- (3) The decision maker shall comply with the request within twenty-eight days after receiving the request.
- (4) The decision maker’s written statement shall contain the following —
- (a) the reasons for the decision; and
 - (b) any findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.
- (5) If this Act and the relevant Act both require the decision maker to give a statement of reasons, the decision maker is only required to give the statement once.

Division 2 – Starting an appeal

Grounds for appeal

- 25.** (1) An affected person in relation to an appealable decision may appeal the decision to the Tribunal on the grounds that the decision is —
- (a) erroneous in law;
 - (b) unreasonable; or
 - (c) contrary to the principles of natural justice.
- (2) The relevant Act may specify additional grounds for appeal.

Starting an appeal

- 26.** (1) An appeal shall be commenced within twenty-eight days after the later of the following —
- (a) the day the affected person was notified of the decision by the decision maker; or
 - (b) if the affected person requested a written statement of reasons for the decision under this Act or the relevant Act, the earlier of the following —
 - (i) the day the written statement is given to the affected person;
 - (ii) the day by which the written statement was required to have been given to the affected person.
- (2) The President may extend the time for commencing an appeal by up to seven days, subject to any requirements of the rules.

Who constitutes the Tribunal for an appeal

- 27.** (1) When an appeal is commenced, the President shall assign one or more members to constitute the Tribunal for the appeal.
- (2) If the President assigns one member to constitute the Tribunal, the President shall assign the President, the Deputy President or a legal member.
- (3) If the President assigns more than one member to constitute the Tribunal —
- (a) at least one member shall be the President, the Deputy President or a legal member; and
 - (b) the number of members shall be an odd number.
- (4) A member cannot be assigned to constitute, or be one of the members constituting, the Tribunal if the member was —
- (a) the decision maker in relation to the relevant appealable decision; or
 - (b) a member of a body that was the decision maker in relation to the relevant appealable decision.



Who presides at a proceeding

- 28.** (1) If the Tribunal is constituted by two or more members, the presiding member is —
- (a) the most senior member, determined by order of precedence; or
 - (b) if the President nominates a different member, that member.
- (2) The order of precedence is as follows —
- (a) President;
 - (b) Deputy President;
 - (c) legal member (in order of date of appointment if there are two or more legal members); and
 - (d) ordinary member (in order of date of appointment if there are two or more ordinary members).

Effect of an appeal on decision

- 29.** Subject to the relevant Act, the commencement of an appeal in the Tribunal does not stay the operation of the relevant appealable decision unless the Tribunal orders otherwise.

Division 3 – Manner and outcome of appeal**Conduct of appeal**

- 30.** (1) An appeal against an appealable decision shall be conducted as specified in the relevant Act.
- (2) The Tribunal may —
- (a) examine the evidence or the material before the decision maker; and
 - (b) in the case of an appeal conducted by rehearing, consider any further evidence or material that the Tribunal decides, in the circumstances of the particular case, to admit.

Determination of appeal

- 31.** (1) After hearing an appeal, the Tribunal may —
- (a) confirm the decision;
 - (b) vary the decision; or
 - (c) set aside the decision and —
 - (i) substitute its own decision; or
 - (ii) send the matter back to the decision maker for reconsideration in accordance with any recommendations the Tribunal considers appropriate.

- (2) The Tribunal may make any consequential orders it considers appropriate.
- (3) The fact that a decision is made on reconsideration under subsection (1)(c)(ii) does not prevent the reconsidered decision from being an appealable decision.

Effect of determination

- 32.** (1) If the Tribunal confirms the decision, no further appeal against the decision can be commenced in the Tribunal by any person.
- (2) If the Tribunal varies or substitutes the decision, the decision —
- (a) is taken to be the decision of the decision maker; and
 - (b) unless the Tribunal orders otherwise, has effect from the time when the original decision would have had effect.
- (3) Despite subsection (2)(a), the varied or substituted decision is not an appealable decision.

Appeal to Grand Court

- 33.** (1) A party to a proceeding may appeal to the Grand Court against a decision of the Tribunal on a question of law.
- (2) A person may appeal only with the leave of the Grand Court.

Division 4 – Procedures of Tribunal

Tribunal may determine own procedures

- 34.** Subject to this Act, the rules or a relevant Act, the Tribunal may determine its own procedures.

Principles for conducting proceedings

- 35.** (1) In conducting a proceeding, the Tribunal shall act fairly and according to the substantial merits of the matter that is the subject of the proceeding.
- (2) The Tribunal —
- (a) shall comply with the rules of natural justice;
 - (b) may inform itself in any way it considers appropriate and is not bound by the rules of evidence;
 - (c) shall act with as little formality and technicality, and with as much speed, as the requirements of this Act, the relevant Act and a proper consideration of the matter permit; and
 - (d) shall ensure, so far as is practicable, that all relevant material is disclosed to the Tribunal to enable it to decide the proceeding.



Tribunal to ensure parties informed

36. The Tribunal shall —

- (a) take reasonable steps to ensure that the parties to a proceeding have a reasonable opportunity to understand the nature of the matter under consideration;
- (b) take reasonable steps to ensure that the parties to a proceeding understand the nature of any assertions made in the proceedings and the legal implications of those assertions; and
- (c) explain to the parties, if requested to do so, any aspect of the procedure of the Tribunal, or any decision or direction made by the Tribunal.

When hearing may be dispensed with

37. Subject to the rules, the Tribunal may determine an appeal without holding a hearing if —

- (a) it appears to the Tribunal that the issues for determination can be adequately determined in the absence of the parties; and
- (b) the parties consent to the appeal being determined without a hearing.

Power to adjourn proceedings

38. The Tribunal may adjourn a proceeding at any time and to any place.

Sittings

39. The Tribunal may sit at the times and in the places in the Islands determined by the President, including at different places at the same time.

Proceedings to be heard in public

40. The hearing of a proceeding shall be open to the public unless the Tribunal orders otherwise under section 43.

Interpreters

41. Unless the Tribunal directs otherwise, a party or a party's representative may be assisted in a proceeding by an interpreter or by another person who is needed to make the proceeding intelligible to that party or representative.

Electronic hearings and proceedings on documents

42. The Tribunal may allow the parties or their representatives or any witnesses to participate in a proceeding by means of telephone, video link, or any other system or method of communication.

Tribunal may make orders for private hearing, non-publication

- 43.** (1) The Tribunal may make orders —
- (a) for a hearing, or part of a hearing, be held in private;
 - (b) prohibiting or restricting the publication of the name and address of a witness appearing before the Tribunal;
 - (c) prohibiting or restricting the publication of evidence given before the Tribunal; or
 - (d) excluding any person from a proceeding or any part of a proceeding.
- (2) The Tribunal may only do so if the Tribunal considers that the order is necessary —
- (a) in the interest of justice;
 - (b) by reason of the confidential nature of the evidence to be given before the Tribunal;
 - (c) to expedite proceedings of the Tribunal; or
 - (d) for any other reason.

Preserving subject matter of proceedings

- 44.** (1) The Tribunal may make any order that may be necessary to preserve the subject matter of a proceeding, or to protect the interests of a party, until questions arising in a proceeding have been determined.
- (2) The Tribunal may make the order on the application of a party or on its own initiative.

Interlocutory orders

- 45.** The Tribunal may make interlocutory orders.

Security as to costs

- 46.** The Tribunal may order a party to a proceeding to give security for the payment of costs or to give an undertaking as to the payment of other monetary amounts that may be awarded against the party.

Conditional and ancillary orders

- 47.** The Tribunal's power to make a decision in a proceeding includes a power to —
- (a) impose conditions on the decision; and
 - (b) make an ancillary order or direction the Tribunal considers appropriate.

Disclosure of interests - assessors

- 48.** (1) This section applies if an assessor has or acquires an interest that may conflict with the performance of the assessor's functions in a proceeding.



- (2) The assessor shall disclose the nature of the assessor's interest to the President.
- (3) The assessor shall not perform any function as an assessor in the proceeding except with the consent of all parties to the proceeding.

Disclosure of interests - members

- 49.** (1) This section applies if a member who constitutes, or is one of the members constituting, the Tribunal for a proceeding has or acquires an interest that may conflict with the performance of the member's functions in the proceeding.
- (2) The member shall disclose the nature of the member's interest to the President, or, if the member is the President, the Deputy President.
 - (3) The member shall not constitute, or be one of the persons constituting, the Tribunal for the proceeding except with the consent of all parties to the proceeding having disclosed the interest to the parties.

Directions for conduct of proceeding

- 50.** (1) The Tribunal may give a direction at any time in a proceeding and do whatever is necessary for the expeditious and fair conduct of the proceeding.
- (2) The Tribunal may give a direction on its own initiative or at the request of a party.
 - (3) A directions hearing may be held for the purposes of this section before any other hearing in a proceeding.

Frivolous, vexatious or improper proceedings

- 51.** (1) This section applies if the Tribunal considers that a proceeding —
- (a) is frivolous, vexatious, misconceived or lacking in substance;
 - (b) is being made for an improper purpose; or
 - (c) is otherwise an abuse of process.
- (2) The Tribunal may dismiss the proceeding on the application of a party or on its own initiative.
 - (3) If the proceeding is dismissed, another proceeding of the same kind in relation to the same matter cannot be commenced without the leave of the President.

Decisions and reasons for decisions

- 52.** (1) All decisions and orders made by the Tribunal shall be issued under the seal of the Tribunal.
- (2) The Tribunal shall give its decision, the reasons for the decision and any relevant findings of fact in writing to the parties to the proceeding within twenty-eight days after the hearing of a proceeding.

- (3) The validity of a decision of the Tribunal is not affected merely because of a failure to comply with subsection (2).
- (4) The Tribunal may request an extension of the time limit mentioned in subsection (2) from the President.

Publication

- 53.** The Tribunal may publish its final decision in a proceeding, with or without the reasons for the decision, in any way it considers appropriate.

Proof of decisions and orders

- 54.** A document that is certified by the Registrar to be a copy of a decision or order of the Tribunal shall be accepted in any legal proceedings as a true copy of the decision or order of the Tribunal, in the absence of proof to the contrary.

Power to issue summons

- 55.** The Tribunal may, on the application of a party or on its own initiative, issue a summons requiring a person to do either or both of the following —
- (a) appear before the Tribunal to give evidence; or
 - (b) produce a document or thing specified in the summons.

Witnesses

- 56.** The Tribunal may require a witness to —
- (a) take an oath or make an affirmation before giving evidence; and
 - (b) answer a question put by a member or a person appearing before the Tribunal.

Parties

- 57.** (1) A person is a party to a proceeding before the Tribunal if the person is —
- (a) the person appealing the relevant appealable decision;
 - (b) the decision maker in relation to the relevant appealable decision;
 - (c) a person joined in the proceeding by order of the Tribunal under section 58;
 - (d) a person intervening in the proceeding under section 59; or
 - (e) any other person specified in this Act or the relevant Act to be a party to the proceeding.
- (2) Subsection (1) applies subject to the rules.



Person may be joined as party

- 58.** (1) The Tribunal may order that a person be joined as a party to a proceeding if the Tribunal considers that —
- (a) the person should be bound by, or have the benefit of, a decision of the Tribunal in the proceeding;
 - (b) the person's interests are affected by the proceeding; or
 - (c) it is desirable for any other reason for the person to be a party.
- (2) The Tribunal may make an order under this section on the application of any person or on its own initiative.

Person may intervene in proceeding

- 59.** (1) A person may intervene in a proceeding with the leave of the Tribunal.
- (2) The Tribunal may grant a person leave to intervene —
- (a) on the grounds specified in the rules; and
 - (b) on any conditions the Tribunal considers appropriate.

Representation

- 60.** (1) A party to a proceeding before the Tribunal is entitled to appear —
- (a) personally;
 - (b) by an attorney-at-law; or
 - (c) with the leave of the Tribunal and subject to the rules, by another representative.
- (2) Unless otherwise determined by the Tribunal, a person appearing before the Tribunal may be assisted by another person as a friend.

Parties bear own costs

- 61.** Subject to sections 62 to 64, parties bear their own costs in a proceeding before the Tribunal.

Tribunal may make costs orders

- 62.** (1) If the Tribunal considers that a party caused unreasonable delay or obstruction before or during a proceeding, the Tribunal may order the party to pay the reasonable costs of the other party arising from the delay or obstruction.
- (2) If the Tribunal decides an appeal in favour of the appellant, the Tribunal may order the other party to pay the filing fee for the appellant.
- (3) The Tribunal may make a costs order in other circumstances if the Tribunal considers it is necessary, in the interests of justice, to make an exception to the presumption that parties bear their own costs.

- (4) The Tribunal, before making a costs order, shall take into account —
 - (a) the main objectives of the Tribunal that are relevant to simplifying proceedings and issues before the Tribunal and to keeping costs to parties to a minimum; and
 - (b) the need to ensure that proceedings are fair and that parties are not disadvantaged by proceedings that have little or no merit.

Costs order against representative

- 63.** The Tribunal may make a costs order against a representative of a party if the representative acted in, or delayed, the proceeding in a way that resulted in unnecessary costs.

Costs of assessor

- 64.** (1) The Tribunal may make an order requiring a party to a proceeding to pay or contribute to the Tribunal's costs of obtaining an assessor's assistance.
- (2) The Tribunal may only make an order under subsection (1) if —
- (a) before obtaining the assistance of the assessor, the Tribunal advised the party of —
 - (i) the Tribunal's intention to obtain the assistance;
 - (ii) the estimated costs of obtaining the assistance; and
 - (iii) the estimated amount of the party's payment or contribution; and
 - (b) the Tribunal gave the party an opportunity to be heard on the matter of obtaining the assistance.

Rules

- 65.** (1) The Rules Committee may make rules for this Act.
- (2) The rules may, subject to this Act or a relevant Act —
- (a) regulate pleading, practice and procedure in the Tribunal;
 - (b) prescribe forms to be used in any proceedings before the Tribunal;
 - (c) subject to subsection (3), prescribe the fees of the Tribunal;
 - (d) regulate matters relating to costs;
 - (e) regulate the taking, giving and admission of evidence; and
 - (f) provide for such other matters as may be reasonably necessary for or incidental to the administration of this Act.
- (3) A rule prescribing fees does not have effect until it has been approved by the Cabinet.
- (4) The rules —
- (a) do not come into force until they have been published in the *Gazette*; and



- (b) shall also be published on the Tribunal website and the Government website.

Practice directions

- 66.** (1) The President may issue such practice directions for the Tribunal as the President considers necessary or convenient for the operation of the Tribunal.
- (2) If there is an inconsistency between a practice direction and the rules, the rules prevail to the extent of the inconsistency.

PART 4 - MISCELLANEOUS

Protection from liability and indemnity

- 67.** (1) Neither the Tribunal nor a member is civilly or criminally liable for anything done or omitted to be done in the discharge of their respective functions or powers unless it is shown that the act or omission was negligent or in bad faith.
- (2) The Government shall indemnify each member against all claims, damages, costs, charges or expenses incurred for an act done or omitted to be done in good faith in the exercise of a power or performance of a function as a member.

Protection from liability for disclosure

- 68.** If a person produces a document or other material under a requirement of this Act, the person is not civilly or criminally liable, or in breach of a professional code, for doing so.

Confidentiality

- 69.** (1) A person commits an offence if the person —
- (a) obtains information in the course of performing functions connected with the administration of this Act; and
 - (b) engages in conduct that results in the disclosure of the information.
- (2) The person is liable on conviction to a fine of ten thousand dollars and imprisonment for a term of one year, or both.
- (3) Subsection (1) does not apply if —
- (a) the person discloses the information —
 - (i) for the purposes of the administration of this Act;
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for the purpose of legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

